

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Continue  
Implementation and Administration of  
California Renewable Portfolio Standard  
Program.

Rulemaking 11-05-005  
(Filed May 5, 2011)

**DECISION GRANTING INTERVENOR COMPENSATION TO SIERRA CLUB  
CALIFORNIA FOR SUBSTANTIAL CONTRIBUTION TO DECISION 13-01-041**

<b>Claimant: Sierra Club California</b>	<b>For contribution to Decision (D.) 13-01-041</b>
<b>Claimed: \$3,655.50</b>	<b>Awarded: \$3,464.00</b> (reduced 5.2%)
<b>Assigned Commissioner: Carla J. Peterman</b>	<b>Assigned ALJ: Anne E. Simon</b>

**PART I: PROCEDURAL ISSUES**

<b>A. Brief Description of Decision:</b>	Denied in part Application for re-hearing, and adopting modifications to D.12-05-035, which adopted policies implementing the Section 399.20 feed-in tariff.
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**B. Claimant must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:**

	Claimant	CPUC Verified
<b>Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):</b>		
1. Date of Prehearing Conference:	July 11, 2011	Verified
2. Other Specified Date for NOI:		
3. Date NOI Filed:	June 9, 2011	Verified
4. Was the NOI timely filed?		Yes
<b>Showing of customer or customer-related status (§ 1802(b)):</b>		
5. Based on ALJ ruling issued in proceeding number:	A.10-03-014	Verified
6. Date of ALJ ruling:	November 30, 2010	Verified
7. Based on another CPUC determination (specify):		
8. Has the Claimant demonstrated customer or customer-related status?		Yes
<b>Showing of “significant financial hardship” (§ 1802(g)):</b>		
9. Based on ALJ ruling issued in proceeding number:	A.10-03-014	Verified
10. Date of ALJ ruling:	November 30, 2010	Verified
11. Based on another CPUC determination (specify):		
12. Has the Claimant demonstrated significant financial hardship?		Yes
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:	D.13-01-041	Verified
14. Date of Issuance of Final Order or Decision:	January 28, 2013	Verified
15. File date of compensation request:	March 29, 2013	Verified
16. Was the request for compensation timely?		Yes

**PART II: SUBSTANTIAL CONTRIBUTION**

**A. In the fields below, describe in a concise manner Claimant’s contribution to the final decision (see § 1802(i), § 1803(a) & D.98-04-059).**

Intervenor’s Claimed Contribution	Specific References to Intervenor’s Decision	CPUC Comments
1. Incorporating compensation for mitigation of local	“modifications, as described herein, are warranted to: (1) explain that the adopted	

environmental compliance costs.	<p>pricing mechanism should account for all of the generator's costs, including environmental compliance costs." (Decision at 4) – citing CC/SC Rehrig. App at 7, Decision at 5-7.</p> <p>"But we agree that there is no legal requirement that these costs be recovered and we modify the Decision, as set forth in the ordering paragraphs below, to delete this unnecessary statement." (Decision at 7).</p> <p>Ordering 1w, 1kk (Decision at 35, 37-38).</p>	Yes. Although Sierra Club's proposal was not incorporated into the final Decision, it substantially contributed.
2. Removing contradictions regarding whether the FiT program can be quickly subscribed.	<p>"modifications, as described herein, are warranted to: (6) delete the statement that the FiT program may be quickly subscribed" (Decision at 4)</p> <p>"Clean Coalition/Sierra Club assert that the Decision contradicts itself when it suggests the FiT program may be expanded if the program's capacity is quickly subscribed because it is not possible to fully subscribe the program before 24 months." (citing Rehrig. App at 8; Decision at 14).</p> <p>"we acknowledge that the statement that the program may be quickly subscribed may be confusing in light of the directive that the utilities incrementally release their allocated capacity over a 24-month period. Therefore we modify the Decision to delete this unnecessary statement." (Decision at 14-15).</p>	Yes
3. Clarification regarding allocation of capacity. Clarification of "initial starting capacity" and "initial capacity allocation" terms.	<p>Sierra Club was the primary drafting party for this issue.</p> <p>"modifications, as described herein, are warranted to: (7) clarify how the program's capacity is allocated and incrementally released...(9) clarify statements regarding the legal requirements for setting avoided costs...(10) correct the statement that subscription in a two-month period can equal more than 100% of the initial capacity allocation for a product type." (Decision at 4)</p>	

	<p>“Clean Coalition/Sierra Club claim that the Decision’s methodology for allocating capacity is unclear and potentially contradictory. According to Clean Coalition/Sierra Club, it’s not clear that each two-month adjustment period has a capacity sum of the two months.” (Decision at 16, citing Rehrig. App. at 10-11)</p> <p>“But we recognize that aspects of the Decision’s discussion of the incremental release of capacity may have caused confusion and take this opportunity to make some clarifications...It appears that there is some confusion in that there are 12 adjustment periods but the Decision directed the Utilities to divide the total program capacity by 24. This directive may also be confusing in light of the mandatory 3 MW allocation during the first period. [modifications for] (1) the utilities should divide the total program capacity by 12 and then assign one-third into each product type; and (2) if dividing the total program capacity by 12 results in less than 3 MW being allocated to a product type per adjustment period, the utilities are to first allocate the minimum 3 MW per product type in the first adjustment period, and then equally allocate their remaining capacity among the three product types over the remaining 11 adjustment periods. We also clarify that the terms ‘initial starting capacity’ and ‘initial capacity allocation’ both refer to the amount of capacity allocated to each adjustment period. (Decision at 17)</p> <p>Ordering dd – gg (Decision at 36-37)</p>	Yes
4. Interpretation of PURPA, avoided cost, FERC Orders, and the Commission’s jurisdiction.	<p>See Ordering 1d, 1f, 1g, 1ww. Sierra Club Comments in response to several ALJ rulings commented extensively on these issues. Ordering 1ww clarifies that the basis of the revised Decision is the Commission’s own policy and that the Decision does not adopt Sierra Club’s interpretation of PURPA.</p>	Yes, although Sierra Club’s proposals were not incorporated into the final Decision.

**B. Duplication of Effort (§§ 1801.3(f) & 1802.5):**

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?<sup>1</sup></b>	Yes	Verified
<b>b. Were there other parties to the proceeding with positions similar to yours?</b>	Yes	Verified
<b>c. If so, provide name of other parties: Clean Coalition, Sustainable Conservation, CEERT, SEIA, CALSEIA.</b>		Verified
<b>d. Describe how you coordinated with DRA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:</b>  Sierra Club California coordinated with other parties with similar positions via conference call and e-mail throughout the proceeding. Sierra Club conferred with other parties after D. 12-05-035 and discussed interest in filing an Application for Rehearing, and continued discussions with Clean Coalition to avoid duplication of effort. Clean Coalition and Sierra Club initially drafted different portions of the Application. Clean Coalition/Sierra Club's Application was distinct in the issues addressed compared to CEERT's Application.		Verified

**PART III: REASONABLENESS OF REQUESTED COMPENSATION****A. General Claim of Reasonableness (§§ 1801 & 1806):**

<b>a. Intervenor's Claim of Cost Reasonableness</b>	<b>CPUC Verified</b>
Sierra Club's cost of participation related to this Application is small compared to the importance of the clarifications achieved. The Decision prior to modification would have resulted in confusion and material disputes at the Advice Letter stage, or potentially disputes between market participants during the administration of the program. The benefits realized through participation include the elimination of several specific clarifications to avoid confusion and/or disputes.	Yes
<b>b. Reasonableness of Hours Claimed.</b>  Sierra Club California participated actively in the proceeding, commenting on rulings requesting comment and collaborating with the Joint Parties on drafting a proposal. Sierra Club California is claiming a small amount of hours that accounts for the reasonable costs of drafting the application and reviewing the resulting Decision.	Yes
<b>c. Allocation of Hours by Issue</b>  Sierra Club allocates all hours drafting the Application to the overall issue of revisions to the Section 399.20 Feed-in tariff. The time spent on subissues are	Yes

<sup>1</sup> The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013: public resources), which was approved by the Governor on September 26, 2013.

approximately equally split between each main subissue that Sierra Club substantially contributed to: (1) environmental compliance costs, (2) overall functioning of the FIT program, (3) key definitions and clarifications, and (4) legal issues and jurisdiction.

### B. Specific Claim:\*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Andy Katz	2012	15	\$205	D.12-05-032; See Comment 2	\$3075.00	14 <sup>[A]</sup>	\$205.00 <sup>2</sup>	\$2,870.00
Andy Katz	2013	1.7	\$215	See Comment 2	\$365.50	1.7	\$220.00 <sup>3</sup>	\$374.00
Subtotal: \$3440.50						Subtotal:\$3,244.00		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Andy Katz	2013	2	\$107.50	See Comment 2	\$215	2	\$110.00	\$220.00
Subtotal: \$215.00						Subtotal: \$220.00		
TOTAL REQUEST: \$3,655.50						TOTAL AWARD: \$3,464.00		
<p>* We remind all intervenors that Commission staff may audit its records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant’s records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Travel and Reasonable Claim preparation time are compensated at ½ of preparer’s normal hourly rate.</p>								

<sup>2</sup> Approved in D.14-12-022.

<sup>3</sup> Approved in D.14-12-022.

Attorney	Date Admitted to CA BAR <sup>4</sup>	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation
Andy Katz	December 1, 2009	264941	No

**C. Attachments Documenting Specific Claim and Comments on Part III**

Attachment or Comment #	Description/ Comment
1	<b>Certificate of Service</b>
2	<p><b>Hourly Rate for Katz in 2012</b></p> <p>For Katz's work in 2012, Sierra Club California seeks an hourly rate of \$205, based on an allowed increase of 2.2% approved in Res. ALJ-281, and the second 5% step increase within the 0-2 year experience level, and rounded to the nearest \$5.</p> <p><b>Hourly Rate for Katz in 2013</b></p> <p>For Katz's work in 2013, Sierra Club California seeks an hourly rate of \$215, based on a 5% step increase for the 1<sup>st</sup> Step Increase within the experience level for attorneys</p>

**D. CPUC Disallowances and Adjustments:**

Item	Reason
A	Reduction of one hour for excessiveness while reviewing Clean Coalition Initial Draft of Application.

**PART IV: OPPOSITIONS AND COMMENTS**

<b>A. Opposition: Did any party oppose the Claim?</b>	No
<b>B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(c)(6))?</b>	Yes

<sup>4</sup> This information may be obtained at: <http://www.calbar.ca.gov/>.

**FINDINGS OF FACT**

1. Sierra Club California has made a substantial contribution to D.13-01-041.
2. The requested hourly rates for Sierra Club California's representative, as adjusted herein, is comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses, as adjusted herein, are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$3,464.00

**CONCLUSION OF LAW**

1. The Claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.

**ORDER**

1. Sierra Club California is awarded \$3,464.00.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall pay Sierra Club California their respective shares of the award, based on their California-jurisdictional electric revenues for the 2012 calendar year, to reflect the year in which the proceeding was primarily litigated. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning June 12, 2013, the 75<sup>th</sup> day after the filing of Sierra Club California's request, and continuing until full payment is made.



3. The comment period for today's decision is waived.

This decision is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

**APPENDIX****Compensation Decision Summary Information**

<b>Compensation Decision:</b>		<b>Modifies Decision?</b>	
<b>Contribution Decision(s):</b>	D1301041		
<b>Proceeding(s):</b>	R1105005		
<b>Author:</b>	ALJ Simon		
<b>Payer(s):</b>	Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company		

**Intervenor Information**

<b>Intervenor</b>	<b>Claim Date</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Multiplier?</b>	<b>Reason Change/Disallowance</b>
Sierra Club California	3/29/2013	\$3,655.50	\$3,464.00	N/A	Reduction for excessive hours; increase for higher rate

**Advocate Information**

<b>First Name</b>	<b>Last Name</b>	<b>Type</b>	<b>Intervenor</b>	<b>Hourly Fee Requested</b>	<b>Year Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
Andy	Katz	Attorney	Sierra Club California	\$205	2012	\$205.00
Andy	Katz	Attorney	Sierra Club California	\$215	2013	\$220.00

**(END OF APPENDIX)**